



COPY

WEST CHESTER POLICE DEPARTMENT  
COLONEL JOEL M. HERZOG  
CHIEF OF POLICE

## Termination of Employment

June 04, 2019

Police Officer James R. Thomas #182

[REDACTED]  
[REDACTED]

Officer Thomas,

Internal Investigation 19-004 led to four (4) *Sustained* findings for violations of West Chester Township Police Rules & Regulations and West Chester Township Police Policy.

We have taken corrective measures and disciplinary action and you have failed to change your careless behavior when investigating these serious crimes. You have brought an unsightly light on the West Chester Police Department and you have failed to operate within our Guiding Principles of Integrity, Commitment, Professionalism, and Courage.

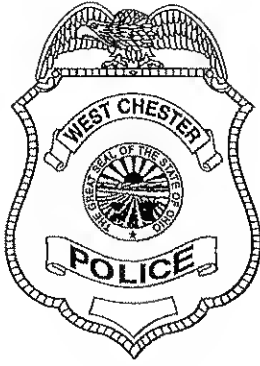
Based upon the outcome of Internal Investigation 19-004 and your deteriorating work record and performance, I am hereby terminating your employment with the West Chester Police Department effective immediately.

A handwritten signature in black ink, appearing to read "Joel M. Herzog", with a long horizontal flourish extending to the right.

Colonel Joel M. Herzog #59

Cc: Personnel File

Chief's Office



## Internal Investigation Unit

West Chester Police Department  
9577 Beckett Road  
West Chester, Ohio 45069

Joel M. Herzog, Chief of Police

---

**IIU File #:** 2019-004  
**Date Received:** 03/29/19  
**Complainant:** Chief's Office  
**Employee Name:** Officer Jim Thomas  
**Assigned to:** Integrity & Development Section  
**Date Assigned:** 04/01/19

**Remarks:**

Memo attached

# West Chester Police Department

## Police Service Log

Year: 2019

Employee Name: **Thomas. James #182**

Initial Above

Date of Entry

Date Notified

Classification

Supervisory Action Taken

3/28/2019

Personnel Complaint

Complaint Unresolved

Initiating Supervisor

Brenner, James #99

Initial Above

Reviewing Supervisor

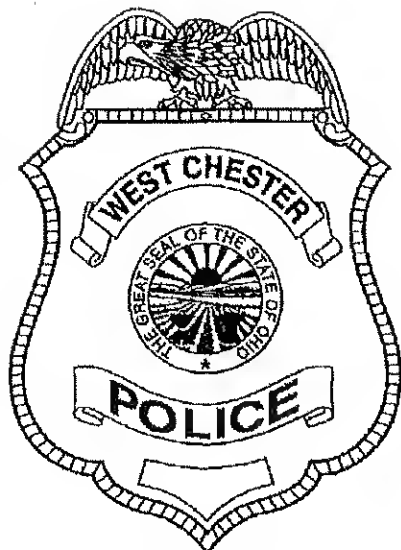
Gutman, Joseph #87

Initial Above

**Activity Summary:**

PSL Attachment ①(1)

See attached Interoffice Memorandum to Captain Gutman.



## West Chester Police Department

Colonel Joel M. Herzog  
Chief of Police  
9577 Beckett Road, Suite 500  
West Chester, Ohio 45069  
(513) 759-7250

### Interoffice Memorandum

To: Capt. Gutman  
Fr: Sgt. James Brenner #99  
Date: 3/28/19  
Re: 19-965

On March 26 2019 I was contacted by [REDACTED]  
[REDACTED] He was calling to request a copy of report  
number 19-965 which was a Possession of Drugs case resulting from a drug overdose that  
occurred at 5852 Forge Bridge Dr. The victim was [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

The officers that responded to this incident, P190820016, were Jim Thomas (THOMAS)  
and Doug Zeller (ZELLER).

While on the phone with [REDACTED] I queried the case in RMS. I quickly read the report  
and noted that it was pretty vague. [REDACTED] said that [REDACTED]  
WCPD had located and collected evidence from the vehicle that the victim had overdosed  
in. I noted that our police report did not reference any evidence or property being logged  
in. In fact the supplement stated that the vehicle was searched and that no evidence of  
drug activity was found. [REDACTED] also asked if there was BWC footage and/or if any  
scene photographs had been taken. [REDACTED] also inquired where the car had been  
towed to. From the report nor CAD could I determine what happened to the car or that  
the car had ever been "run for wants" or added to the call for service. I informed  
[REDACTED] that I would have our Central Records Section (CRS) email a copy of the

report to him the following morning. [REDACTED]  
[REDACTED]

On March 27 2019 I continued to follow up with [REDACTED] requests. I logged into Evidence.com to query the BWC footage. I found that there was only one BWC video recorded by ZELLER. This made me believe that THOMAS had not activated his camera for some reason. I emailed Jannell Murrell (MURRELL) and requested that she mark all video from the incident to be held. She responded indicating that she too had only located ZELLER's video. It should be noted that later in the day I logged back into Evidence.com to pull up ZELLER's video and now found that there was a video from THOMAS as well. I went and spoke to MURRELL to ask how that happened and she informed me that she located THOMAS' video after she audited all "unnamed" videos. She indicated that this is fairly common and that it has happened before involving THOMAS. I inquired whether or not she reports these incidents and she said that they are reported on occasion. I felt that she was downplaying the issue and I told she should report each time she finds unnamed videos from officers to her supervisor.

After reviewing each video I had a pretty good understanding of the incident. THOMAS had been the first to arrive on scene. A short time later he does calls out the license plate number to dispatch. They later respond with owner information but this information was never entered into the call in CAD. THOMAS knocks several times on the window but gets no response. He opens the door and checks for the victims pulse and breathing. He performs sternum rubs with no response. THOMAS talks with someone off camera who is believed to be the 911 caller. THOMAS is then seen checking the victims pockets and finds a prescription pill bottle. He asks the caller what the name of the victim is but you cannot hear the person's response. The video shows THOMAS hold up the pill bottle as if to read the label but the video is blurred and I could not see the information on the bottle. He then places the bottle back in the victim's pocket without any further inspection. Thomas inquires whether or not the caller knew if the victim uses drugs at which point you hear the caller say that the victim in fact "snorts percs". The caller claims that the victim went to get "percs" earlier in the night. He says several other times during the exchange that the victim uses or snorts percs and/or "cops" perc powder which commonly is determined to be clandestine pressed fentanyl pills.

The squad arrives and begins to treat the victim. ZELLER arrives also. After the victim is removed from the vehicle ZELLER and THOMAS search the vehicle. THOMAS searches the passenger side and finds a rolled up piece of paper. He mentions he believes that it had powder residue and was probably what was used to snort drugs. He also finds a small Advil bottle. He does open it and says that there was a white pill that was the same as the pills in the prescription bottle. During either instance the pills were never removed from the bottle or inspected closely. In fact the first prescription pill bottle was not opened. The Advil bottle was returned to the center console. As the search was concluded THOMAS walks with the rolled up paper to the back of the car and talks with ZELLER. He indicates that there is not much that could be done with it and puts it back in the car. He tells ZELLER he is going to take an Aided Case and be done with it. THOMAS explains to the caller he was going to take a report and that he would leave the keys with him to be later returned to the victim.

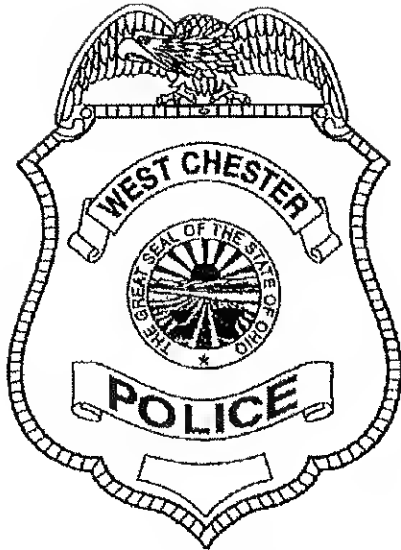
I reviewed ZELLER'S BWC video. It shows much of the same footage but from the driver's side of the car. ZELLER can be seen searching around the driver's compartment ungloved. He is seen picking up a folded piece paper that appears to be 8"x11" after it is

unfolded. Also it appears to have a corner square torn away which looks to be similar size to the rolled up piece of paper THOMAS located. He then meets THOMAS at the back of the car. THOMAS explains he will take an Aided Case and be done.

I spoke to Jason Hartley (HARTLEY) the EMS Captain with WCFD. He provided me a copy of the hospital report he had received from UC Health WCMC. He also explained that he would speak with the crew of Medic 71 to try and obtain additional information.

At this time I have no further information.

A handwritten signature in black ink, appearing to read "Jason Hartley #24". The signature is stylized with a large, loopy initial "J" and "H".



## West Chester Police Department

Colonel Joel M. Herzog  
Chief of Police  
9577 Beckett Road, Suite 500  
West Chester, Ohio 45069  
(513) 759-7250

# Interoffice Memorandum

**To:** Joel M. Herzog, Chief of Police  
**CC:** LTC Brian Rebholz  
**Fr:** Captain Joe Gutman #87  
**Date:** 3/28/19  
**Re:** Offense Number 19-00965 Titled Possession of Synthetic Drugs

On 3/23/19, PO Thomas and PO Zeller responded to 5852 Forge Bridge for a squad run. The notes in the CFS indicate that the caller found his friend [REDACTED] in a vehicle outside the caller's residence with the window broken out and his friend was unresponsive but breathing. He also had blood on his face.

Officers Thomas and Zeller investigated the call. The following information is based on what I observed on BWC footage:

The caller tells officers that [REDACTED] is known to crunch up Percocet tablets and snort them. PO Thomas and PO Zeller search the vehicle. PO Zeller is searching without the use of any PPE such as latex gloves. A prescription bottle was found on [REDACTED] by PO Thomas. It was not collected as evidence. PO Thomas finds a rolled up paper in the vehicle with white residue on it. He states that he thinks [REDACTED] may have used the paper to snort the drugs with. He did not collect it as evidence. PO Thomas finds an Advil bottle in the vehicle. A white pill was located in the Advil bottle. It also was not collected. PO Thomas says the white pill in the Advil bottle matches that of the prescription bottle. It did not appear that these pills were run or identified by the officers. The complainant makes several references to text messages. The victim's cell phone was not seized for evidence. The search of the vehicle is cursory and does not appear to be thorough. The vehicle was apparently left at the scene though that is not described in the report. PO Thomas also did not title/tag his BWC. That was located only after Police Tech Murrell located it and tagged/titled it.

The offense report confirms that none of the above mentioned items were collected as evidence. The offense report investigative supplement by PO Thomas also says "I looked through the vehicle for any signs of drug activity and was unable to locate anything." The BWC footage seems to dispute this statement.

Additionally, this call was not mentioned in the Shift Information Summary which I have attached. Lastly, the vehicle information was never included in the call for service information by Dispatch or in the offense report as a related vehicle. The only way the vehicle was identified was through the BWC footage.

On 3/27/19, Detective Brenner was contacted by [REDACTED]

On 3/27/19 at approximately 17:00 hours, Captain Hensley called me to make me aware of this situation. We agreed to meet again on 3/28/19 to discuss the case further.

On 3/28/19, I met with Sgt. Brenner and Captain Hensley to gather additional information. I also made copies of the report, the call for service and obtained the BWC footage from Police Tech Murrell, all of which is attached to this memo. Sgt. Brenner also completed a memo regarding his involvement. He will also complete an investigative supplement to 19-00965 outlining his follow-up on the case. Lastly, the Life Squad report and hospital report are also attached.

I recommend that this case be referred to the Integrity and Development Section for internal investigation. My primary concerns are about the thoroughness of this investigation and report and the safety concerns regarding the failure to don PPE. I also feel this call should have been included in a Shift Information Summary. Lastly, I feel the vehicle information should have been included in the call for service.

Rule violations that may apply:

- 1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester.
- 1.04 Members shall exercise the responsibility and authority of the position to which they are assigned in accordance with job specifications and standard operating procedures or practices of that assignment.
- 2.02 Members of the department shall: a) Provide the necessary advice and/or assistance to citizens in a prompt and courteous manner. b) Thoroughly document

information from citizens relating to complaints or reports in accordance with existing department procedure.

- 2.03 Members of the department shall complete and submit necessary reports on time and in accordance with established departmental procedures.
- 2.04 Members of the department shall be thorough in the preparation of their cases by proper execution of legal documents, analysis, and preservation of evidence, summoning of witnesses and review of their testimony.

Respectfully,

*Captain Joe Gutman #87*  
Captain Joe Gutman #87  
Patrol Bureau Commander

*Assign to I+D for an internal investigation.*

*for [Signature] 3/29/19*  
~~39~~

**Calls For Service Report**

Call ID: P190820016

Printed: March 25, 2019

1. Agency WCP	2. Person Received Complaint Weishaar, Carly	3. Date/Time Received 03/23/2019 4. Time Dispatched 05:56	5. Time Arrived 05:59 6. Time Complete 06:52	7. Case # 19-00965
8. Nature Of Incident	SQUAD RUN			
9. Location Of Incident	5852 FORGE BRIDGE DR, WEST_CHESTER OH			
10. Victim or Caller	LOPEZ,SIEL			
11. Classification	12. How Received 'ANI/ALT' I/CAD	13. Disposition REPORT NUMBER	14. Officer Thomas, James R	15. Date Submitted 03/23/2019

**Notes:**

\*\* LOI search completed at 03/23/19 05:55:08  
 FOUND IN VEH BY HIS FRIEND  
 WINDOW BROKEN AND UNRESPONSIVE  
 BREATHING  
 \*\* Case number R1901516 has been assigned to event F190820002  
 \*\* >>>> by: 10226 on terminal: idisp2  
 \*\* Recommended unit M71 for requirement SQUAD(0) (3.1 mi)  
 \*\* Recommended unit E71 for requirement ENG(1) (3.1 mi)  
 \*\* Recommended unit 3P41 for requirement PU NO SUPV(0) (>1.7 mi)  
 COMP ADV HE WENT TO BED AND HIS FRIEND WAS NOT HOME YET, HE WOKE UP AND SAW CAR  
 OUTSIDE AND CHECKED ON HIM, HAS 'WEIRD BREATHING'  
 COMP ADV [REDACTED] IS STAYING WITH HIM FOR FEW DAYS OVER SPRING BREAK  
 OFFICERS CONFIRMS BREATHING, PULSE FOUND  
 \*\* VEH search completed at 03/23/19 06:04:07  
 \*\* LOI information for Event # P190820016 was viewed at: 03/23/19 06:04:12  
 \*\* >>>> by: CHRIS WOOD on terminal: idisp3  
 \*\* PER search completed at 03/23/19 06:07:09  
 \*\* PER search completed at 03/23/19 06:07:39  
 \*\* Case number C1900965 has been assigned to event P190820016  
 \*\* >>>> by: JAMES THOMAS on terminal: \$3P41  
 TRANSPORTING TO W CHESTER MC  
 \*\* LOI information for Event # P190820016 was viewed at: 03/23/19 06:18:56  
 \*\* >>>> by: CHRIS WOOD on terminal: idisp3  
 \*\* LOI information for Event # F190820002 was viewed at: 03/23/19 06:19:55  
 \*\* >>>> by: CARLY WEISHAAR on terminal: idisp2



328

# Event Chronology -- P190820016

☒ System Comments

Time	Date	Terminal Operator	Action
5:55:06 AM	3/23/2019	ldisp2 10226	EVENT CREATED: Location=5852 FORGE BRIDGE DR BC WCHT , Cross Streets=CHANTILLY DR /NEW CASTLE DR , Name=LOPEZ, SIEL , Call Source=ANI/ALI , Phone Number=(513) 467-8000  Agency=WCP, Group=WCP, Beat=8, Status=8, Priority=4, ETA=0, Hold Type=0, Current=F, Open =T, Type Code=SQUAD-SQUAD RUN, SubType Code=OD-OVERDOSE  EVENT COMMENT=[REDACTED]
5:55:08 AM	3/23/2019	cad2 10226	EVENT COMMENT=** LOI search completed at 03/23/19 05:55:08
5:55:12 AM	3/23/2019	ldisp2 10226	EVENT COMMENT=FOUND IN VEH BY HIS FRIEND
5:55:18 AM	3/23/2019	ldisp2 10226	EVENT COMMENT=WINDOW BROKEN AND UNRESPONSIVE
5:55:20 AM	3/23/2019	ldisp2 10226	EVENT COMMENT=BREATHING
5:55:56 AM	3/23/2019	ldisp2 10226	EVENT COMMENT=** Case number R1901516 has been assigned to event F190B20002  ** >>>> by: 10226 on terminal: ldisp2  CASE NUMBER ASSIGNED=R1901516  Disposition Assigned=REPORT
5:56:08 AM	3/23/2019	ldisp3 10219	Unit=3P41, Status=DP, Location=5852 FORGE BRIDGE DR 8C WCHT, Employee=10182  EVENT COMMENT=** Recommended unit 3P41 for requirement PU NO SUPV(0) (>1.7 ml)
5:56:23 AM	3/23/2019	\$3P41 10182	Unit=3P41, Status=ER, Location=5852 FORGE BRIDGE DR BC WCHT, Employee=10182
5:56:43 AM	3/23/2019	ldisp2 10226	EVENT COMMENT=COMP ADV HE WENT TO BED AND HIS FRIEND WAS NOT HOME YET, HE WOKE UP AND SAW CAR  OUTSIDE AND CHECKED ON HIM, HAS 'WEIRD BREATHING'
5:57:04 AM	3/23/2019	ldisp2 10226	EVENT COMMENT=COMP ADV [REDACTED] IS STAYING WITH HIM FOR FEW DAYS OVER SPRING BREAK
5:59:42 AM	3/23/2019	ldisp3 10219	Unit=3P61, Status=DP, Location=5852 FORGE BRIDGE DR BC WCHT, Employee=10151
5:59:50 AM	3/23/2019	\$3P61 10151	Unit=3P61, Status=ER, Location=5852 FORGE BRIDGE DR 8C WCHT, Employee=10151
5:59:51 AM	3/23/2019	ldisp3 10219	Unit=3P41, Status=AR, Location=5852 FORGE BRIDGE DR 8C WCHT, Employee=10182
6:01:16 AM	3/23/2019	ldisp3 10219	EVENT COMMENT=OFFICERS CONFIRMS BREATHING, PULSE FOUND
6:03:15 AM	3/23/2019	\$3P61 10151	Unit=3P61, Status=AR, Location=5852 FORGE BRIDGE DR 8C WCHT, Employee=10151
6:04:06 AM	3/23/2019	ldisp3 10219	SUPP INFO CREATED: VEHIC: , License Number=HGA4027
6:04:07 AM	3/23/2019	cad2 10219	EVENT COMMENT=** VEH search completed at 03/23/19 06:04:07
6:04:12 AM	3/23/2019	ldisp3 10219	EVENT COMMENT=** LOI information for Event # P190820016 was viewed at: 03/23/19 06:04:12  ** >>>> by: CHRIS WOOD on terminal: ldisp3
6:07:09 AM	3/23/2019	cad2 10226	EVENT COMMENT=** PER search completed at 03/23/19 06:07:09
6:07:09 AM	3/23/2019	ldisp2 10226	SUPP INFO CREATED: [REDACTED]
6:07:39 AM	3/23/2019	ldisp2 10226	[REDACTED]
6:07:39 AM	3/23/2019	cad2 10226	EVENT COMMENT=** PER search completed at 03/23/19 06:07:39
6:07:39 AM	3/23/2019	ldisp2 10226	[REDACTED]
6:07:40 AM	3/23/2019	ldisp2 10226	Unit=3P41, Status=UC, Comment=Unit [3P41] Inf Issue Qry 8939663:0000010226

6:12:07 AM 3/23/2019 \$3P41 10182 [REDACTED]  
EVENT COMMENT=\*\* Case number C1900965 has been assigned to event P190820016  
\*\* >>>> by: JAMES THOMAS on terminal: \$3P41  
CASE NUMBER ASSIGNED=C1900965  
Disposition Assigned=REPORT

6:14:36 AM 3/23/2019 \$3P41 10182 Unit=3P41, Status=AM, Employee=10182  
Disposition Assigned=REPORT

6:14:50 AM 3/23/2019 \$M71 20401 EVENT COMMENT=TRANSPORTING TO W CHESTER MC

6:15:07 AM 3/23/2019 idisp3 10219 Unit=3P41, Status=DP, Location=5852 FORGE BRIDGE DR BC WCHT, Employee=10182

6:15:18 AM 3/23/2019 \$3P41 10182 Unit=3P41, Status=AR, Location=5852 FORGE BRIDGE DR BC WCHT, Employee=10182

6:16:27 AM 3/23/2019 \$3P61 10151 Unit=3P61, Status=AM, Employee=10151  
Disposition Assigned=ASSIST

6:18:56 AM 3/23/2019 idisp3 10219 EVENT COMMENT=\*\* LOI information for Event # P190820016 was viewed at: 03/23/19  
06:18:56  
\*\* >>>> by: CHRIS WOOD on terminal: idisp3

6:20:42 AM 3/23/2019 \$3P41 10182 [REDACTED]

6:50:22 AM 3/23/2019 \$3P41 10182 Unit=3P41, Status=UC, Comment=GPS SIGNAL STRENGTH NONE, Location=5852 FORGE  
BRIDGE DR BC WCHT, Employee=10182

6:52:15 AM 3/23/2019 \$3P41 10182 Agency=WCP, Group=WCP, Beat=8, Status=8, Priority=4, ETA=0, Hold Type=0,  
Current=T, Open =F, Type Code=SQUAD-SQUAD RUN, SubType Code=OD-OVERDOSE  
EVENT CLOSED  
Unit=3P41, Status=AM, Employee=10182  
Disposition Assigned=REPORT

# Case Summary Report

Agency: WCP

Case Number: 19-00965

Date: 3/28/2019 09:05:16

Last Modified: 3/25/2019 13:45:11

## Incident Information

Date/Time Reported	Date/Time Found	Date/Time Found	Officer
03/23/2019 05:55	03/23/2019 05:55	03/23/2019 05:55	(10182) THOMAS, JAMES R
Incident Location			
5852 Forge Bridge Dr, West_chester, OH 45069			

274

## Offenses Reported

1	Charge Type	Description	Statute	UCR	<input type="checkbox"/> Alt
	State	POSSESSION OF DRUGS (SYNTHETIC DRUGS)	2925.11	35A	<input checked="" type="checkbox"/> Com
Alcohol, Drugs or Computers Used		Location Type	Premises Entered	Forced Entry	Weapons
<input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computers		DRIVEWAY/WALKWAY/YA		<input type="checkbox"/> Yes <input type="checkbox"/> No	1.
Entry	Exit	Criminal Activity	2.		
		USING/CONSULTING	3.		
Bias Motivation		Bias Target	Bias Circumstances	Hate Group	

## Victims

Seq. #	Type	Injuries	Residency Status			Ethnicity	
1	SOCIETY / PUBLIC	None					
Name(Last, First, M)		SSN	Race	Sex	DOB	Age	
STATE OF OHIO		- -					
Address					Home Phone		
30 E BROAD ST, COLUMBUS, OH 43215							
Employer Name/Address					Business Phone		
/							
Victim of Crimes						Lic. Number	
1							

# Case Summary Report

Agency: WCP

Case Number: 19-00965

Date: 3/28/2019 09:05:16

Last Modified: 3/25/2019 13:45:11

## Offenders

Seq. #	Type	Name (Last, First, M)	Lic. Number	SSN
2	INDIVIDUAL			
AKA		Hair	Eyes	Race
		Sex	DOB	Age
		Height	Weight	
Address				Home Phone
Employer Name/Address				Business Phone
/				
Scars, Marks, Tattoos or other distinguishing features				
Physical Characteristics				

## Suspect Details

## Other Persons Involved

Name Code	Seq. #	Name (Last, First, M)	Race	Sex	DOB
Reporting Party	1	LOPEZ-ECHEVERRIA, SAEL BADID	W	M	05/02/2001
Address			SSN	Home Phone	
5852 FORGE BRIDGE DR, WEST_CHESTER, OH 45069					
Employer Name/Address			Lic. Number	Business Phone	
/					

## Property

Seq. #	Description	Serial Number	Make/Model
1			
Owner		License / State	Color
STATE OF OHIO			
Status	Status Officer	Quantity	Units of Measure
NONE	(10182) THOMAS, JAMES R		NS
Gun Type	Caliber	Finish	Grip
			Gun Stock
Condition	Gun Test	Test Type	Sight Test
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Sight Type			
Property Notes			

## Case Summary Report

Agency: WCP

Case Number: 19-00965

Date: 3/28/2019 09:05:16

Last Modified: 3/25/2019 13:45:11

### Notes/Narratives

On listed date and time the offender overdosed on an unknown substance.

### Notes/Continuation

## Case Summary Report

Agency: WCP

Case Number: 19-00965

Date: 3/28/2019 09:05:16

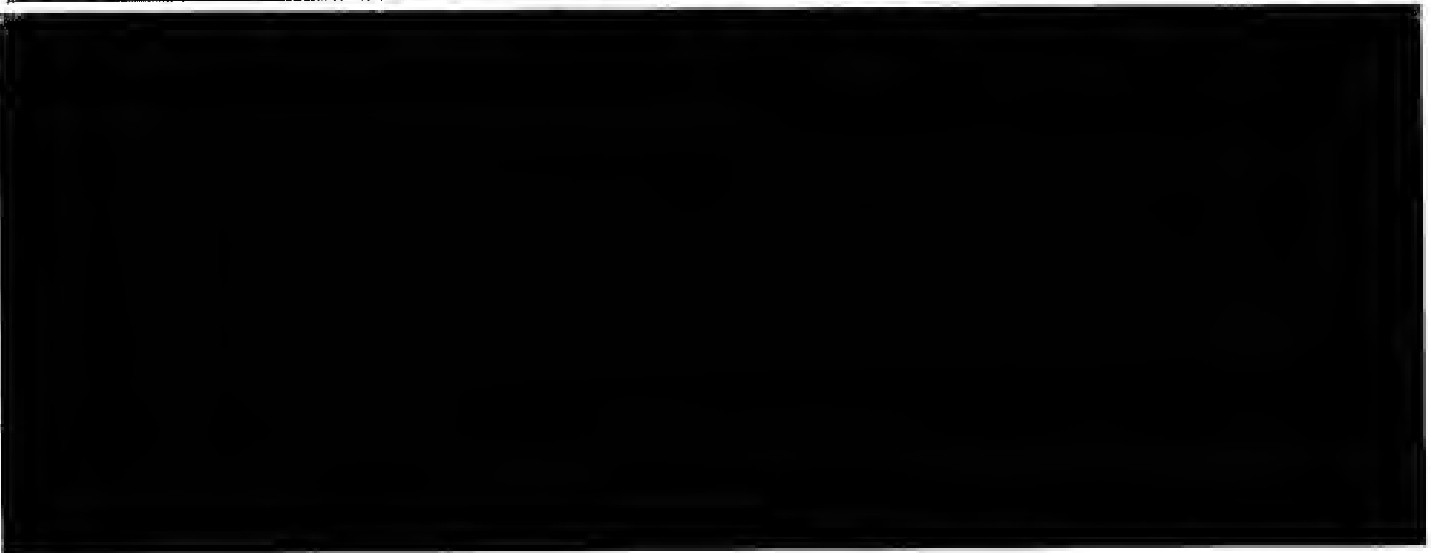
Last Modified: 3/25/2019 13:45:11

### Supplement Information

Supplement Date	Supplement Type	Supplement Officer
03/23/2019 06:30:12	INVESTIGATIVE SUPPLEMENT	(10182) THOMAS, JAMES R
Contact Name		Supervising Officer
		(10040) NIEHAUS, RICHARD J

274

### Supplement Notes



## Case Summary Report

Agency: WCP

Case Number: 19-00965

Date: 3/28/2019 15:57:01

Last Modified: 3/25/2019 13:45:11

### Supplement Information

Supplement Date	Supplement Type	Supplement Officer
03/28/2019 15:28:03	INVESTIGATIVE SUPPLEMENT	(10099) BRENNER, JAMES R
Contact Name	Supervising Officer	

274

### Supplement Notes

[Redacted Content]

**West Chester Police Department**  
**Support Bureau**  
**Police Integrity and Development Section**

**Date:** March 23, 2019  
**Date Assigned:** April 1, 2019  
**IIU#:** 19-004  
**Investigator(s):** Sergeant Mark Weingartner #67  
**Complainant:** Office of the Chief of Police  
**Officer(s) Involved:** Police Officer Jim Thomas #182

**Background**

On March 26, 2019 Sergeant James Brenner #99 was contacted by [REDACTED] [REDACTED] requested a copy of Incident Report #19-965, Possession of Drugs. The report was related to a drug overdose that occurred on March 23, 2019 at 5852 Forge Bridge Dr. in West Chester, Ohio. [REDACTED]

[REDACTED] At the time [REDACTED] contacted Sgt. Brenner, the overdose subject was still in the hospital, unconscious, and in ICU.

[REDACTED]

He also asked about body worn camera video, any photographs taken, and where the vehicle had been towed. Sgt. Brenner reviewed Incident Report #19-965 discovering no evidence was logged into property. The narrative stated the vehicle was searched and no evidence of drug activity was found. Also, the report did not have the vehicle module completed and the narrative did not state what was done with the vehicle. Sgt. Brenner attempted to locate the body worn camera video in reference to the report. He only located one belonging to Officer Doug Zeller #151. Sgt. Brenner requested West Chester Police Body Worn Camera Coordinator, Jannell Murrell #273, to locate all body worn camera video from the report. Ms. Murrell located body worn camera video for Officer Zeller and Officer Jim Thomas #182. Sgt. Brenner reviewed the body worn camera videos and identified concerns with the report and brought them to the attention of Captain Joseph Gutman #87.

**Complaint**

The complaint was generated by Capt. Gutman based on the information discovered by Sgt. Brenner. The complaint alleges Officer Thomas failed to thoroughly investigate, document, and collect evidence related to Incident Report 19-965. The complaint also alleges Officer Thomas

entered inaccurate, false, incomplete, or misleading information in the report and failed to categorize his body worn camera video.

#### Issue #1

Did Officer Jim Thomas #182 fail to thoroughly investigate and document information related to report 19-965 in accordance with department procedure? West Chester Police Department Rules and Regulations Section 1.02 states:

*1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester.*

Policy 321 Incident Reporting states in part:

#### **321.2.2 REPORTING OFFICER'S RESPONSIBILITY**

- *Conduct a thorough preliminary investigation.*
- *Document all findings of the investigation in IFR.*

#### Issue #2

Did Officer Jim Thomas #182 fail to document and collect evidence of a crime related to report 19-965 in accordance with department procedure? West Chester Police Department Rules and Regulations Section 1.02 states:

*1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester.*

Policy 600 Investigation and Prosecution states in part:

#### **600.3.1 OFFICER RESPONSIBILITIES**

- b. If information indicates a crime has occurred, the officer shall:*
  - 5. Document and collect any evidence.*

#### Issue #3

Did Officer Jim Thomas #182 fail to download, tag, or mark his Body Worn Camera recording of report 19-965 in accordance with department procedure? West Chester Police Department Rules and Regulations Section 1.02 states:

*1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester.*

Policy 420 Portable Audio/Video Recorders (Body-Worn Cameras) states in part:

**420.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

*To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.*

Issue #4

Did Officer Jim Thomas #182 knowingly enter or cause to be entered inaccurate, false, incomplete, or misleading information in report 19-965? West Chester Police Department Rules and Regulations Section 5.01 states:

*5.01 No member shall knowingly enter or cause to be entered any inaccurate, false, incomplete, misleading, or improper information to an official report or statement.*

**Investigation**

April 1, 2019

IIU 19-004 was assigned to Integrity and Development for investigation.

I reviewed the complaint, associated reports, and began identifying potential Rules and Regulations violations.

April 3, 2019

Officer Thomas was served IIU 1. Sergeant Doug Farris #187 witnessed Officer Thomas being served and both were provided a copy. The form was added to the file. An interview with Officer Thomas was scheduled for April 7, 2019 at 1900 hours.

Jannell Murrell #273

Sgt. Tombragel #106 and I interviewed Ms. Murrell as a witness. The interview was recorded and added to the file. The interview is summarized and paraphrased below.

Ms. Murrell is the Body Worn Camera Coordinator for the West Chester Police Department. I asked Ms. Murrell if she had been recently contacted by Sgt. Brenner with a request for all body worn camera video in reference to Report #19-965 involving Officer Thomas responding to an overdose. She confirmed Sgt. Brenner made a request for all video and she initially only located one video and it belonged to Officer Zeller. Ms. Murrell suspected there was additional video, because the multi-player showed on the screen and this indicates videos were made within a close proximity to one another. Ms. Murrell searched the uncategorized videos and found Officer Thomas' video for this report.

Ms. Murrell confirmed the West Chester Police Body Worn Camera policy and the training officers receive places the responsibility of categorizing video on the individual officer that creates the video. Ms. Murrell said all videos should be categorized. She explained the process and explained the officers are supposed to use their department issued tablet to put in the ID# (P number), the Case# (Report number), and then categorize the video as either a report call or anything else so they know to save the video or delete it after 30 days.

I asked if it is common for videos to be uncategorized. Ms. Murrell said it is "extremely common". She said there are certain officers that frequently have uncategorized videos and Officer Thomas is one. Typically, Ms. Murrell will search the uncategorized videos and categorize them herself. When she discovers a large number of uncategorized videos from the same officer, she reports them to Lt. Matt Beiser #65 and he handles it. Ms. Murrell said there is no procedure for reporting or a log for tracking officers failing to categorize videos.

#### April 4, 2019

I reviewed Body Worn Camera video for Officer Zeller and Officer Thomas from Incident Report 19-965. The videos are added to the Recordings section of this report. The videos are summarized below.

#### Officer Jim Thomas #182 -- Body Worn Camera Video

Officer Thomas is the first to arrive on the scene. He approaches a vehicle in the driveway and finds a male white subject reclined in the driver's seat. The subject does not respond when Officer Thomas knocks on the window. Officer Thomas opens the driver's door to check on the subject. The subject has snoring / labored breathing and is unresponsive. Officer Thomas radios dispatch and tells them the subject is unconscious, but has a pulse and is breathing.

A male subject is off camera, later identified as Sael Lopez. He says he lives there and identifies himself as a friend of the unresponsive male. Officer Thomas asks Mr. Lopez if his friend does dope and he says he does "percs shit" and has bought percs in powder form in the past. Officer Thomas removes a prescription bottle from the subject's jacket pocket and asks Mr. Lopez what his friend's name is. He says his name is [REDACTED] and Officer Thomas appears to examine the prescription bottle label. The video of the label is out of focus and cannot be read. The prescription bottle is in Officer Thomas' left hand and he is holding a flashlight in his right hand. The prescription bottle is not always in view of the camera, but it does not appear Officer Thomas

ever takes the lid off the bottle and does not identify its' contents. [2:05] Officer Thomas places the prescription bottle back into [REDACTED] jacket pocket.

Mr. Lopez says he last saw [REDACTED] about 1:00 am. He sent a Snapchat message saying he was on his way back and would be there in about 30 minutes. Mr. Lopez went outside to see if he was back and that is when he found him unresponsive in the car. Officer Thomas discovered the rear passenger window broken out of the vehicle. Mr. Lopez confirms the car belongs to [REDACTED]. Officer Thomas radioed dispatch the vehicle license plate number and dispatched returned with the registered owner's information.

West Chester Life Squad and Officer Doug Zeller arrived on the scene. Officer Thomas advised the life squad personnel the subject is unconscious, has a pulse, and is breathing. One of the squad members asks if he has anything on him and Thomas says, "He's got some drugs in his pocket." [4:50] The life squad personnel remove [REDACTED] from the car, put him on a stretcher, and place him in the back of the life squad.

Mr. Lopez tells Officer Thomas that [REDACTED] and some of his friends "cop their percs in powder form". (Sgt. Brenner notes in his written statement of this internal investigation complaint, that this describes clandestine pressed fentanyl pills.) He tells him [REDACTED] was meeting some girl and she was supposed to have some perc powder. Officer Thomas tells the squad personnel [REDACTED] is known to crush percs and snort them. Officer Zeller begins searching the driver's side of the vehicle and Officer Thomas searches the passenger side. Officer Zeller is not wearing protective gloves during the search. Officer Thomas locates a rolled up piece of paper on the floorboard, between the front passenger seat and the front passenger floorplate. Officer Thomas inspects the rolled up paper and places it on the passenger seat. Officer Zeller states, "I don't see anything else. Probably just what he's got on him." Officer Thomas looks at the rolled up paper and says, "I don't know what, uh, what this is? It's got some powder on it, but, I mean it's just rolled up on the floor here." [8:35] Officer Thomas locates an Advil bottle in the center console area. He opens the bottle and says there is a pill in the bottle that is the same pill from the prescription bottle. Officer Thomas never removed the pill from the Advil bottle to make an identification. [10:00] Officer Thomas picks up the rolled up paper and walks to the rear of the car and says to Officer Zeller, "I'm going to say he probably rolled this up and snorted it, but not enough to." [10:40] Officer Zeller replied, "Probably good chance." Officer Thomas then says that he is going to just do an Aided Case on him and that is about all he has.

Officer Thomas gives the car keys to Mr. Lopez and tells him he is taking a report and when [REDACTED] comes to later, if he remembers stuff he wants to tell the police about, he can do that.

#### Officer Doug Zeller #151 – Body Worn Camera Video

Officer Zeller's arrives approximately the same time as the life squad. The video captured by Officer Zeller is the same as Officer Thomas' video, but from a different angle. The only additional information I found on Officer Zeller's video, just prior to the officers clearing the call, Officer Zeller approaches the life squad and opens the side door. He tells the squad personnel, "We didn't find anything else in the car, just whatever pills he's got on him. Found a rolled up piece of paper, looks like he might of crushed, some sort of pill, probably what he's got on him?, but nothing else in the car."

April 5, 2019

### West Chester Fire Department Patient Care Report

The Patient Care Report was reviewed and it was added to the Documents section of this report.

The narrative section of the Patient Care Report was completed by West Chester Firefighter Sean Connelly #20378. Firefighter Connelly documented [REDACTED] was found unresponsive in the driver's seat of a car. The vehicle had a broken rear passenger window, but no other signs of damage. He described [REDACTED] as having snoring respirations and minor dried blood on his face. The narrative states, [REDACTED]  
[REDACTED]

An email created by Lieutenant Dave Tivin #58 was located and has been added to the Documents section of this report. The email is from March 31, 2016. The email instructs officers to document overdose calls as Drug Abuse reports or other drug-related offenses. The email instructs officers to document the scene, take witness statements, complete officer narratives, and collect evidence.

Officer Steven Seitzman #234 came to my office and told me Officer Thomas was attempting to contact the FOP attorney and have her present for his interview. He informed me they may need to re-schedule the interview to allow her to be present. I advised Officer Seitzman the interview needs to take place during Officer Thomas' work hours and needs to take place at the scheduled date and time or re-scheduled for Wednesday April 10, 2019. I asked Officer Seitzman to have Officer Thomas contact me if he wished to change the scheduled interview. I received a text at 5:26 pm stating, "Sorry I did not see you before you left. Sunday will work." A screen shot of the text message was added to the documents section of this report.

April 7, 2019

### Officer Doug Zeller #151

Sgt. Matt Tombragel and I interviewed Officer Zeller at approximately 1857 hours as a witness officer. The interview was recorded and added to the file. The interview is summarized and paraphrased below.

Officer Zeller was asked to describe the call he responded to with Officer Thomas on March 23, 2019 for a possible overdose at 5852 Forge Bridge Dr. Officer Zeller said Officer

Thomas was the first to arrive and he arrived at approximately the same time as the life squad. There was a male subject outside and he said he lived at the residence. The male subject in the vehicle was a friend of his. Officer Zeller described the male in the driver's seat of the vehicle as "not very responsive." Officer Zeller and Officer Thomas spoke to the resident (Sael Lopez) and attempted to determine what happened. They were attempting to put together a time frame and find out if the subject took drugs.

Officer Zeller and Officer Thomas both looked through the vehicle and nothing was found that could be logged in. Zeller said there was no evidence of contraband or anything that could be tested. He stated, "No heroin, pills, no syringes, no capsules, no nothing like that." Zeller said the subject had medication in a pill bottle, he believes is prescribed to the subject, but he is not sure what the medication was. Officer Zeller described the call as pretty routine and said the medication went with the subject to the hospital.

Officer Zeller remembered Mr. Lopez saying something about his friend in the vehicle ( ) using drugs in the past, but he does not remember if he said he used drugs that night or what type of drugs he uses. I asked Officer Zeller if Officer Thomas identified what was inside the prescription bottle. He believes Officer Thomas opened the prescription bottle to see what the pills were and there wasn't anything like marijuana or heroin inside, because Officer Thomas would have collected it and logged it in. Officer Zeller was asked about the rolled up piece of paper Officer Thomas found, containing unknown powder. Officer Thomas opened a piece of rolled up paper and said he didn't know what it was. Officer Zeller said there could have been something on it, but there wasn't anything to test. Officer Zeller stated several times during the interview that the rolled up piece of paper did not have anything on it to test, so there wasn't anything to log in.

Officer Zeller said he always attempts to send prescription medications with the patient to the hospital on squad runs. Sgt. Tombragel pointed out that this case is different, because the subject is known to abuse pills. Officer Zeller confirmed prescription medications should be identified if the officer is not familiar with the medication in question. He said it is easy to identify pills by using the computer to check "Pill Identifier" or calling Poison Control.

#### Q & A with Officer Zeller

(These questions/statements occurred throughout the interview)

**Q:** In the Body Worn Camera video, Officer Thomas said, "I'm going to say, um, he probably rolled this up and snorted it." If he identified the piece of paper and he potentially used it to snort medication, is that consistent with evidence of drug abuse?

**A:** "Could it be? I suppose it could be, but there was, there was nothing. If I remember the call correctly, there was nothing that he could have tested in that. Nothing. There was nothing there that we could have gone in and said, for sure, a swab, nothing, there was nothing there. So to say that somebody, used this, I mean yah, we maybe you have a, an idea that this is what it was, you, you don't know. There is, there's nothing there to test."

**Q:** How do you make the determination there was nothing there to test?

**A:** If you are looking at the piece of paper, you don't see any signs of residue, you don't see any signs of leafy green materials, you don't see any signs of black tar heroin, you don't see any signs of anything.

**Q:** Did you inspect this item that he (Officer Thomas) found? Did you look at it yourself?

A: "Did I? I don't remember. I, I know I, I know he didn't hand it to me, that, as far as I can remember that he didn't hand it to me that I looked at it. I tru, I trust em. Thomas is a good cop. He's not going uh, not log something in. If he has reason to believe that it's used in, in, we can test it. If there's nothing to test, there's nothing to test. It would be like the same thing as finding shake on the floorboard of a car, yah, it looks like you have evidence of marijuana, but you're not gonna log it in, because there's not enough there to test, but you can tell that stemmed from bud."

Q: Sgt. Tombragel referenced the body worn camera video. He describes the subject in the vehicle as being unresponsive, having agonal breathing, clearly a drug overdose, the friend said he is known to use opioid type drugs, and Thomas finds a piece of paper with powder on it. Tombragel asked Zeller, "You don't think that would be, something that would be collect, you, what are you going to take that case as?"

A: "I, I, with, if I don't have anything that I can test, I'm not labeling it as a drug possession. If I don't have anything there, because I don't know, I don't know if this guy shot up down the road? I don't know if this guy did any of that, I don't know, I don't know."

Q: Sgt. Tombragel: "I understand there is an unknown, but you find a rolled up piece of paper with powder, his friend saying that he crushes up and snorts pills. What are you going to title the report as?"

A: "If, if I find. If I find powder, where I can test it. I am going to take that in and say, this is, this is a Aided Case and or Drug Possession."

Q: "So, how much carfetanil does it take for someone to overdose on?"

A: "That I have nooo idea. But if we go like this, and I can see like a microdot or something, great, ok fine, we'll test that. If I open up a piece of paper and it blows away, and I'm like, ok, I don't, I don't know what that is? I'm not logging that in, because there's nothing to test, I don't know what to test it for. I don't have any idea of what to do with that. It's nothing. It could be anything."

Sgt. Tombragel said that is why we send items to the lab for testing. Zeller said if he has something to test, "I would be more than happy to do it and so would Thomas. Thomas ain't short cutting a, a call for that. It's too easy to log it in."

Q: Do you know what amount of a powder residue is required to test positive?

A: "It's not much. It's not much, I don't know the grams or anything." "I don't know if it's microbes, grams, but I know it's not a lot."

Sgt. Tombragel asked if Officer Zeller, would at minimum, document that in a report. Officer Zeller stated, "Would I in the report? Absolutely! I would document it in the report."

Officer Jim Thomas #182

Sgt. Matt Tombragel and I interviewed Officer Thomas. Officer Steve Seitzman #234 was present as a union representative. Officer Thomas read and signed IIU 3, Administrative Warning and reviewed his Body Worn Camera video prior to the interview. The interview was recorded and added to the file. The interview is summarized and paraphrased below.

I asked Officer Thomas to tell me about the possible overdose call he responded to on March 23, 2019 at 5852 Forge Bridge Dr. Officer Thomas arrived and found a vehicle in the driveway with the rear passenger window broken. There was a male subject [REDACTED] in the driver's seat and he appeared to be passed out. Officer Thomas checked on the subject and found he had a pulse and labored breathing. The subject who called dispatch (Sael Lopez) exited the residence and told Officer Thomas he was a friend of the male in the vehicle. Mr. Lopez told Officer Thomas he received a text from his friend around 0530 hours, saying he was on his way home. He went outside about 0600 hours and found [REDACTED] in the car. Mr. Lopez told Officer Thomas that [REDACTED] snorts Percocet. Officer Thomas located a prescription bottle in the pocket of [REDACTED] jacket. Officer Thomas thinks the prescription was for [REDACTED]. Officer Thomas does not remember what the prescription is for, but he knows it was not for Percocet or hydrocodone. Officer Thomas placed the prescription bottle back into [REDACTED] pocket, so the squad and hospital would know what medications he is on. The life squad arrived. Officer Thomas told them what he observed in reference to [REDACTED] and he had medication in his pocket. The life squad personnel removed him from the vehicle and placed him in the squad.

Officer Thomas and Officer Zeller began searching the car. Officer Thomas located a rolled up piece of paper on the passenger floorboard area. Officer Thomas placed his flashlight under his arm, began unrolling the piece of paper, and observed "a very light layer of dust" hit the air, like surface dust hit the light from his flashlight. He said, "No powder came out on my hand, no dust came out on my hand, no dust fell to the ground, um, nothing, transferred to my gloves, uh, immediately made the, um, decision that there was less than traceable dust on the paper itself. Um, and, felt like that, that the paper did not need to be, uh, collected as evidence, because it was, there was nothing to test, nothing to, um, show that there's any possibility of any kind of drugs on the paper." [4:09] Officer Thomas said when he watched his body worn camera video, he heard himself mention to Officer Zeller he believed the piece of paper had some type of powder on it, but he didn't know what it was. When Officer Thomas completed searching the vehicle, he picked up the piece of paper and walked to the back of the car. He told Zeller the only thing he had was the piece of paper and the subject could have used it to snort Percocet. He said he did not know, so he put the rolled up paper back in the vehicle. Officer Thomas said, "Based on the totality of everything that I had observed, everything I had, uh witnessed first-hand, um, I, uh, I used my discretionary mean to determine that I didn't feel like that, piece of paper needed to be collected. Um, I didn't feel like there was anything on the paper to be tested, anything of value that needed to be collected. There was no. In my opinion, there was no drugs on the paper, um, because when I'm unrolling it and looking at it, it's literally dust, is hit, the my flashlight light. There was no, nothing, nothing came off on my hands, nothing fell (inaudible), and I didn't try to roll it back up and put it back up and put it back in and lay it gently back in there." [6:02]

Officer Thomas used his best judgement to determine the paper did not need to be collected. Officer Thomas described opening the rolled up piece of paper and seeing dust in the light of his flashlight. He said it was like seeing surface dust coming off. He said he has no idea why he said powder on the body worn camera video, because that is not an accurate description of what he actually observed. Officer Thomas mentioned he was coming off his twelfth hour of night shift.

Q: What was the title of the report?

A: Possession of Drugs.

Q: Why did you title the report Possession of Drugs?

A: Officer Thomas said he believes he initially took the report as Aided Case, but was told to take it as Possession of Drugs. He said the report is taken as Possession of Drugs, because that is most likely what you suspect. He said there was no intention or indications he wanted to harm himself.

Q: Are you suspecting this to be an overdose?

A: "I didn't know what this was. Um, I felt based on, he had, there was no, drugs, contraband, anything within his vicinity that showed, that appeared to me he had been using something, um, uah, in his vehicle." [8:22]

Officer Thomas explained he did not know how this stuff is snorted and if he would have observed powder on the subject's chest or located a mirror with residue on it, it would have been a stronger suspicion of a possible overdose. He said he is not a medical expert and did not know if he was having a reaction to something, if it was an overdose, or if it was simply a medical condition.

Officer Thomas was asked why he did not document the vehicle in the report. He said he does not know if the vehicle module is required for a drug case. He said he ran the vehicle through dispatch and he did not think he needed to include it in the report, because he was not collecting it and it was not suspected of being stolen.

Q: "When you removed the prescription bottle from his jacket, um, do you recall what the prescription was for?"

A: "I do not recall, no."

Q: Was his name on the prescription bottle?

A: To my recollection, yes. That is why I was asking, "What's this guy's name?" and when he told me, it matched up with the name on the bottle.

Q: Did you identify what was inside the prescription bottle?

A: No I did not.

I referenced Officer Thomas locating the Advil bottle. I asked how many pills were inside the bottle. He said he did not know, but after watching the body worn camera video he remembers telling Officer Zeller one of them matched up with the pills in the prescription bottle. I asked how

he knew the pill matched the prescription medication. He guessed he opened the prescription bottle and looked inside. (This is inconsistent with what is seen on Officer Thomas' body worn camera video) I advised Officer Thomas this is not consistent with the body worn camera video. He said he did not know if he saw it from the outside, he couldn't recall. He said, "I was able to see the pills that were in there." I asked if he removed the pills and identified any markings or ran them through Poison Control. He said, "No."

I asked Officer Thomas about telling Officer Zeller, "I'm gonna say, he probably rolled this up and snorted it." I asked if he thought the subject used the paper to snort some kind of drug and he said it was more of an assumption based on what the friend told him. He said it was not 100% factual. I had Officer Thomas review the email from Lieutenant Dave Tivin from March 2016. The email instructed officers to title overdose calls as Drug Abuse or other drug-related offenses and to document the scene, witness statements, officer narratives and collect evidence. Officer Thomas said he was not familiar with the email, but he was aware to document overdose calls and not to treat them squad runs.

I asked Officer Thomas about his narrative for the report and stating, "Officer Zeller and I then looked through the vehicle for any signs of drug activity and was unable to locate anything."

**Q:** Is that an accurate description of the investigation that took place on that night?

**A:** "It's accurately describing what, that we did not locate, that I, determined that there was nothing of evidentiary value locate."

**Q:** I advised that was not the question. The question is, "saying that you found no evidence of drug activity. Is that an accurate representation of what took place?"

**A:** "I believe it to be, because I. The paper that I found, I could not determine if it was being used for drug activity. I, said on video an assumption of what he probably did, but I have, I couldn't make that a hum, official determination."

Officer Thomas was asked about Body Worn Camera Policy and if he was familiar with when to activate the camera and how to tag the videos. He said he is "vaguely" familiar with the Body Worn Camera Policy and he is unsure if he tagged his video for this report. Officer Thomas said he has forgotten to tag videos in the past and it is common across the board for officer to forget to tag videos.

Sgt. Tombragel stated the piece of paper may not have had enough to field test, but could it have been sent to the lab for testing. Officer Thomas did not feel there was anything left on it to test. Sgt. Tombragel asked if that was worth mentioning in the report. Officer Thomas said he used his best judgment and discretion and he did not believe it had evidentiary value. Thomas said he was not purposely omitting it from the report. Officer Thomas feels he did his due diligence in this in the investigation. He acted in good faith, he used officer discretion, and his best judgement to determine what he did. Based on the totality of the circumstances and the situation with the paper, he didn't think it needed to be collected.

## Summary

On March 23, 2019 Officer Jim Thomas responded to 5852 Forge Bridge Dr. for a possible overdose. When Officer Thomas arrived, he found [REDACTED] in driver's seat of a vehicle in the driveway. [REDACTED] was unresponsive and had snoring / labored breathing. Saul Lopez exited the residence and identified himself as a friend of [REDACTED]. Mr. Lopez told Officer Thomas he received a message from [REDACTED] around 0530 hours saying he was on his way to the Forge Bridge Dr. address. Mr. Lopez found [REDACTED] unresponsive in the vehicle and called 911. Mr. Lopez told Officer Thomas that [REDACTED] is known to snort crushed up Percocet. Officer Thomas located a prescription bottle in the jacket pocket of [REDACTED].

West Chester Life Squad arrived, removed [REDACTED] from the vehicle, and placed him in the life squad. Officer Doug Zeller arrived and assisted Officer Thomas with searching the vehicle. Officer Thomas located a rolled up piece of paper on the passenger floorboard of the vehicle. The paper had unidentified powder on it and Thomas told Officer Zeller, "I'm going to say he probably rolled this up and snorted it, but not enough to." Officer Thomas also located an Advil bottle containing an unknown pill.

Officer Thomas completed West Chester Police Incident Report #19-965, Possession of Drugs. In the narrative portion of the report, Officer Thomas states, "Officer Zeller and I then looked through the vehicle for any signs of drug activity and was unable to locate anything." After completing the report, Officer Thomas failed to tag or categorize the Body Worn Camera video for the call.

The following facts were discovered during Internal Investigation IIU 19-004:

- Officer Thomas was dispatched for a possible overdose.
- Officer Thomas arrived and found [REDACTED] unresponsive and having snoring / labored breathing.
- Mr. Lopez told Officer Thomas that [REDACTED] is known to snort crushed up Percocet.
- Officer Thomas located a prescription bottle in [REDACTED] jacket pocket and did not identify the medication inside the bottle.
- Officer Thomas located a rolled up piece of paper on the passenger floorboard of the vehicle. He told Officer Zeller, "I'm going to say he probably rolled this up and snorted it, but not enough to."
- Officer Thomas located an unknown pill in an Advil bottle. He stated it was the same as the prescription, however he never identified the medication in the prescription bottle.
- Officer Thomas did not collect the unidentified medication or the rolled up piece of paper as potential evidence of a drug offense.
- Officer Thomas did not tag or categorize his Body Worn Camera video for Incident Report #19-965.
- Officer wrote in the narrative portion of Incident Report #19-965, "Officer Zeller and I then looked through the vehicle for any signs of drug activity and was unable to locate anything."

## Recommended Findings

### Issue #1

Did Officer Jim Thomas #182 fail to thoroughly investigate and document information related to report 19-965 in accordance with department procedure? West Chester Police Department Rules and Regulations Section 1.02 states:

*1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester.*

Policy 321 Incident Reporting states in part:

#### **321.2.2 REPORTING OFFICER'S RESPONSIBILITY**

- *Conduct a thorough preliminary investigation.*
- *Document all findings of the investigation in IFR.*

**SUSTAINED – The allegation is supported by sufficient evidence.**

### Issue #2

Did Officer Jim Thomas #182 fail to document and collect evidence of a crime related to report 19-965 in accordance with department procedure? West Chester Police Department Rules and Regulations Section 1.02 states:

*1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester.*

Policy 600 Investigation and Prosecution states in part:

#### **600.3.1 OFFICER RESPONSIBILITIES**

- b. If information indicates a crime has occurred, the officer shall:*
  - 5. Document and collect any evidence.*

**SUSTAINED – The allegation is supported by sufficient evidence.**

Issue #3

Did Officer Jim Thomas #182 fail to download, tag, or mark his Body Worn Camera recording of report 19-965 in accordance with department procedure? West Chester Police Department Rules and Regulations Section 1.02 states:

*1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester.*

Policy 420 Portable Audio/Video Recorders (Body-Worn Cameras) states in part:

**420.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

*To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.*

**SUSTAINED – The allegation is supported by sufficient evidence.**

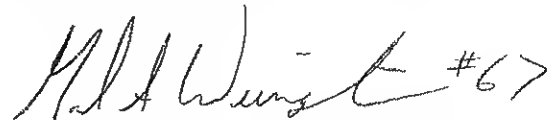
Issue #4

Did Officer Jim Thomas #182 knowingly enter or cause to be entered inaccurate, false, incomplete, or misleading information in report 19-965? West Chester Police Department Rules and Regulations Section 5.01 states:

*5.01 No member shall knowingly enter or cause to be entered any inaccurate, false, incomplete, misleading, or improper information to an official report or statement.*

**SUSTAINED – The allegation is supported by sufficient evidence.**

This investigation completed: April 18, 2019

A handwritten signature in black ink, appearing to read "M.A. Weingartner #67".

Sgt. Mark A. Weingartner #67

**Internal Investigation Unit  
West Chester Police Department**

**Notification of Internal Investigation  
And Rights**

IIU#2019-04

**Personnel Involved:** Police Officer Jim Thomas #182

Notification in compliance with Section Nine of the West Chester Police Rules and Regulations.

The West Chester Police Department is conducting an internal investigation in regard to:

See Reverse Side

**Employee Rights**

I have been informed of the nature of this investigation.

I have been advised that I have the right to tape record my entire interview, including comments prior to and following the actual questioning.

I have been advised that if my tape recorder fails to work, and the employer makes its own recording, that original recording will be made available to copy.

I have been advised that if I am a union member that I have the right to have a union member present during the interview.

I have been advised that should this investigation result in a disciplinary hearing, I, or my designated representative, shall have the right to obtain a copy of any written or recorded statement that I have given, that will be used in a disciplinary hearing.

PO Thomas 182  
Employee Signature and I.D. number

Date: 4/3/19 Time: 0637

[Signature] #67  
Investigator's Signature and I.D. number

Sgt D. Farness 187  
Witness

**Interview**

Interview Scheduled: 4/7/19 at 1900 hours.

PO Thomas 182  
Employee Signature and I.D. number

[Signature] #67  
Investigator's Signature and I.D. Number

Distribution:  
Original to Case File  
Copy to Employee  
Copy to Employee's Commanding Officer

Issue #1

Did Officer Jim Thomas #182 fail to thoroughly investigate and document information related to report 19-965 in accordance with department procedure? West Chester Police Department Rules and Regulations Section 1.02 states:

*1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester.*

Policy 321 Incident Reporting states in part:

**321.2.2 REPORTING OFFICER'S RESPONSIBILITY**

- Conduct a thorough preliminary investigation.
- Document all findings of the investigation in IFR.

Issue #2

Did Officer Jim Thomas #182 fail to document and collect evidence of a crime related to report 19-965 in accordance with department procedure? West Chester Police Department Rules and Regulations Section 1.02 states:

*1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester.*

Policy 600 Investigation and Prosecution states in part:

**600.3.1 OFFICER RESPONSIBILITIES**

- b. If information indicates a crime has occurred, the officer shall:*
  - 5. Document and collect any evidence.*

Issue #3

Did Officer Jim Thomas #182 fail to download, tag, or mark his Body Worn Camera recording of report 19-965 in accordance with department procedure? West Chester Police Department Rules and Regulations Section 1.02 states:

*1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General*

*Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester.*

Policy 420 Portable Audio/Video Recorders (Body-Worn Cameras) states in part:

**420.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

*To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.*

Issue #4

Did Officer Jim Thomas #182 knowingly enter or cause to be entered inaccurate, false, incomplete, or misleading information in report 19-965? West Chester Police Department Rules and Regulations Section 5.01 states:

*5.01 No member shall knowingly enter or cause to be entered any inaccurate, false, incomplete, misleading, or improper information to an official report or statement.*

**Internal Investigation Unit  
West Chester Police Department**

**Administrative Warning**

**IIU#19-04**

You are hereby advised that you are about to be questioned as part of an official administrative investigation of the Police Department. You will be asked specific questions which will relate directly and narrowly to the performance of your official duties or fitness as an employee or member of the Police Department. The purpose of this interview is to assist in determining whether disciplinary action is warranted, and the answers furnished may be used in disciplinary proceedings that could result in administrative action against you.

Because this is an administrative and not a criminal investigation, the Police Department will not use any of the answers or information gained from this interview in any criminal proceedings against you.

You are further advised that you are hereby ordered and required to fully and truthfully answer all questions asked of you in this interview.

Your failure to comply with this order constitutes a violation of the Rules and Regulations of the Police Department.

Rule 1.07 provides: Members shall be honest in all matters.

Rule 5.02 provides: A member must, upon direction of the Police Chief or his designated representative, respond completely and truthfully to all questions that are specifically directed and narrowly related to his performance as a police officer. Since the member is required by rule and case law to respond, and has no right against self-incrimination, the response to such questions may be used only in the application of administrative justice. The member is immune in any subsequent related criminal proceeding from the uses of his answers or fruits thereof. Should the member fail or refuse to respond completely and truthfully to all questions of this nature directed to him as a member of the Police Department, he will be given a direct order to do so. Refusal or failure to then respond will result in the pursuit of disciplinary action against the member for failure to obey the order. That disciplinary action may result in administrative sanctions against the member which may include dismissal from his employment as a member of the Police Department.

The undersigned hereby acknowledges that he/she was informed of the above order and requirement to answer all questions fully and truthfully.

B. Thomas CR2 4/7/19 1517  
Employee Signature and I.D. number Date/Time

[Signature] #67  
Investigator's Signature and I.D. number

Witness [Signature] SEITZMAN  
#234

Witness [Signature]

Internal Investigation Unit  
West Chester Police Department

Administrative Review

IIU# 19-004

Employee: Police Officer Jim Thomas #182

I&D Section Lieutenant: LT Paul Haerig #39 Date: 4-18-19  
Bureau Commander: Captain Gurnea #87 Date: 4/18/19  
Bureau Commander: CAPT. James Henry #130 Date: 4/19/19  
Assistant Chief of Police: \_\_\_\_\_ Date: \_\_\_\_\_

Unit Commander's Employee Insight

Unit Commander: LT. Chris Whittier #119 Date: 5-9-19  
☒ Insight provided, see attached documentation

The Office of the Chief of Police has reviewed this investigation along with the recommended findings from the Integrity and Development Section and the following decision has been made:

- ☐ CONCUR WITH FINDINGS  
☐ DO NOT CONCUR WITH FINDINGS / OTHER FINDING  
☐ RETURN FOR ADDITIONAL INVESTIGATION  
☒ ADMINISTRATIVE HEARING REQUESTED

COMMENTS: ( ☐ Additional Comments Attached )

Chief of Police: [Signature] Date: 4/25/19  
Original to Case File  
☒ Return to I&D for Notification

**Internal Investigation Unit  
West Chester Police Department**

**Internal Investigation Findings**

IIU#19-004

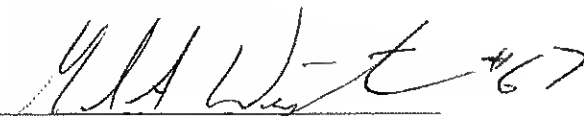
**Employee:** Police Officer Jim Thomas #182  
**Complainant:** Office of the Chief of Police

The internal investigation of this matter has been concluded on April 25, 2019. In compliance with Section Nine of the Rules and Regulations of the West Chester Police Department, you are being notified that the complaint has been found:

- ☐ SUSTAINED
- ☐ NOT SUSTAINED
- ☐ EXONERATED
- ☐ UNFOUNDED
- ☐ SUSTAINED OTHER

The completed investigation has been:

- ☐ FINDINGS ACCEPTED
- ☐ CORRECTIVE ACTION TAKEN:
- ☐ FINDINGS NOT ACCEPTED, AMMENDED FINDING:
- ☒ ADMINISTRATIVE HEARING TO BE SET. DISPOSITION TO BE DETERMINED

  
\_\_\_\_\_  
Advising Authority

Distribution:  
Original to Case File  
Copy to Employee (w/in 5 days of investigation completion)  
Copy to Employee's Commanding Officer (w/in 5 days)  
Copy to Complaint Investigator

Internal Investigation Unit  
West Chester Police Department

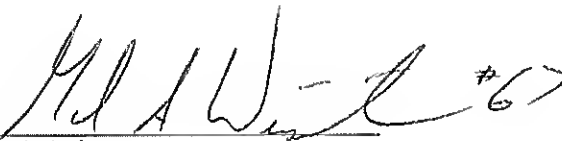
Notification of Administrative Hearing

IIU#19-004

Employee: Police Officer Jim Thomas #182

You are hereby ordered to report to the Chief's Conference Room on May 22, 2019 at 1430 hours for an Administrative Hearing concerning the following charges against you:

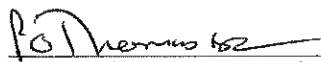
See Reverse Side

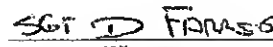
  
Advising Authority

You have the right to:

1. Obtain a copy of any written or recorded statement you have given during the investigation of these charges, provided you make a written request prior to the hearing.
2. You have the right to select another member of the Police Department and/or attorney to accompany and represent you at the hearing, subject to the limitations set in Section Nine of the Rules and Regulations.
3. You have the right to have witnesses appear on your behalf and present matters of mitigation to the hearing officer.

I have been informed of this hearing date on 5/1/19 and have been advised of my rights according to the current labor agreement and Section Nine of the West Chester Police Rules and Regulations.

  
Employee Signature and I.D. number      5/1/19 1437  
Date/Time

  
Witness

Distribution:  
Original to Case File  
Copy to Employee

### Issue #1

Did Officer Jim Thomas #182 fail to thoroughly investigate and document information related to report 19-965 in accordance with department procedure? West Chester Police Department Rules and Regulations Section 1.02 states:

*1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester.*

Policy 321 Incident Reporting states in part:

#### **321.2.2 REPORTING OFFICER'S RESPONSIBILITY**

- *Conduct a thorough preliminary investigation.*
- *Document all findings of the investigation in IFR.*

### Issue #2

Did Officer Jim Thomas #182 fail to document and collect evidence of a crime related to report 19-965 in accordance with department procedure? West Chester Police Department Rules and Regulations Section 1.02 states:

*1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester.*

Policy 600 Investigation and Prosecution states in part:

#### **600.3.1 OFFICER RESPONSIBILITIES**

- b. If information indicates a crime has occurred, the officer shall:*
  - 5. Document and collect any evidence.*

### Issue #3

Did Officer Jim Thomas #182 fail to download, tag, or mark his Body Worn Camera recording of report 19-965 in accordance with department procedure? West Chester Police Department Rules and Regulations Section 1.02 states:

*1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester.*

Policy 420 Portable Audio/Video Recorders (Body-Worn Cameras) states in part:

**420.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

*To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.*

Issue #4

Did Officer Jim Thomas #182 knowingly enter or cause to be entered inaccurate, false, incomplete, or misleading information in report 19-965? West Chester Police Department Rules and Regulations Section 5.01 states:

*5.01 No member shall knowingly enter or cause to be entered any inaccurate, false, incomplete, misleading, or improper information to an official report or statement.*

**Internal Investigation Unit  
West Chester Police Department**

**Administrative Hearing Report**

IIU# 19-004

**Employee Subject of Hearing P.O.**  
Rank

**James R. Thomas**  
Name

**182**  
ID#

**Charges** (Charge to Include Rules & Regulation Section Number)

Issue #1 West Chester Police Department Rules and Regulations Section 1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester. Policy 321 Incident Reporting states in part: 321.2.2 REPORTING OFFICER'S RESPONSIBILITY

- Conduct a thorough preliminary investigation.
- Document all findings of the investigation in IFR.

Issue #2 West Chester Police Department Rules and Regulations Section 1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester. Policy 600 Investigation and Prosecution states in part: 600.3.1 OFFICER RESPONSIBILITIES

b. If information indicates a crime has occurred, the officer shall:

5. Document and collect any evidence.

Issue #3 West Chester Police Department Rules and Regulations Section 1.02 Members shall not commit or omit any acts which constitute a violation of any Rule, Regulation, Directive, Interim Directive, General Order, Special Order, Policy or Procedure of the Police Department or Township of West Chester. Policy 420 Portable Audio/Video Recorders (Body-Worn Cameras) states in part: 420.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

Issue #4 West Chester Police Department Rules and Regulations Section 5.01 No member shall knowingly enter or cause to be entered any inaccurate, false, incomplete, misleading, or improper information to an official report or statement.

**Statement of Charges**

On March 23, 2019 Officer Jim Thomas responded to 5852 Forge Bridge Dr. for a possible overdose. When Officer Thomas arrived, he found [REDACTED] in driver's seat of a vehicle in the driveway. [REDACTED] was unresponsive and had snoring / labored breathing. Sael Lopez exited the residence and identified himself as a friend of [REDACTED]. Mr. Lopez told Officer Thomas he received a message from [REDACTED] around 0530 hours saying he was on his way to the Forge Bridge Dr. address. Mr. Lopez found [REDACTED] unresponsive in the vehicle and called 911. Mr. Lopez told Officer

Thomas that [REDACTED] is known to snort crushed up Percocet. Officer Thomas located a prescription bottle in the jacket pocket of [REDACTED].

West Chester Life Squad arrived, removed [REDACTED] from the vehicle, and placed him in the life squad. Officer Doug Zeller arrived and assisted Officer Thomas with searching the vehicle. Officer Thomas located a rolled up piece of paper on the passenger floorboard of the vehicle. The paper had unidentified powder on it and Thomas told Officer Zeller, "I'm going to say he probably rolled this up and snorted it, but not enough to." Officer Thomas also located an Advil bottle containing an unknown pill.

Officer Thomas completed West Chester Police Incident Report #19-965, Possession of Drugs. In the narrative portion of the report, Officer Thomas states, "Officer Zeller and I then looked through the vehicle for any signs of drug activity and was unable to locate anything." After completing the report, Officer Thomas failed to tag or categorize the Body Worn Camera video for the call.

The following facts were discovered during Internal Investigation IIU 19-004:

- Officer Thomas was dispatched for a possible overdose.
- Officer Thomas arrived and found [REDACTED] unresponsive and having snoring / labored breathing.
- Mr. Lopez told Officer Thomas that [REDACTED] is known to snort crushed up Percocet.
- Officer Thomas located a prescription bottle in [REDACTED] jacket pocket and did not identify the medication inside the bottle.
- Officer Thomas located a rolled up piece of paper on the passenger floorboard of the vehicle. He told Officer Zeller, "I'm going to say he probably rolled this up and snorted it, but not enough to."
- Officer Thomas located an unknown pill in an Advil bottle. He stated it was the same as the prescription, however he never identified the medication in the prescription bottle.
- Officer Thomas did not collect the unidentified medication or the rolled up piece of paper as potential evidence of a drug offense.
- Officer Thomas did not tag or categorize his Body Worn Camera video for Incident Report #19-965.
- Officer Thomas wrote in the narrative portion of Incident Report #19-965, "Officer Zeller and I then looked through the vehicle for any signs of drug activity and was unable to locate anything."

Hearing Officer Colonel  
Rank

Joel M. Herzog  
Name

59  
ID#

Date of Hearing 05/22/2019

Time of Hearing 1430

Location of Hearing West Chester Police Department 9577 Beckett Rd.

Persons Present at Hearing Col. Herzog, Capt. Gutman, Capt. Hensley, Lt. Haering, Sgt. Weingartner, Sgt. Tombragel, P.O. Thomas, P.O. Seitzman

**Form IIU 8 Required**  
IIU Attached if Yes

Yes ☐

No ☒

### **Summary of Employee Statement**

Officer Thomas read a prepared statement into the record. (See Attached) Officer Thomas stated he was dispatched to a medical episode. He stated he did not discover any signs of drug abuse on the subject. He didn't recall the prescription name but believes it was not Percocet. He stated he was told the subject was known to snort Percocet. Officer Thomas stated that he misspoke on the scene when he stated that he rolled up paper had powder residue and it was just surface dust. He said this was because he was tired. Officer Thomas stated that he told Officer Zeller that the subject may have snorted prescribed pills with the rolled up paper. Officer Thomas believes he properly documented the scene as he did not locate any signs of illegal drug activity. He did take responsibility for not tagging his video but said that is not uncommon for officers and ask to be treated the same. He stated he had no probable cause to believe the pills were used illegally and did not believe there was evidence of criminal conduct. He also stated that there were no signs that the subject snorted or used any type of drugs while in the vehicle. He stated he made the decisions based on his experience and training. Officer Thomas stated that he did not receive transitional training when he went back to uniform patrol and that in part, is why he has not met expectations.

### **Hearing Summary**

Captain Gutman read the charges and Sgt. Weingartner read the summary of the investigation. Officer Thomas was given an opportunity to give any mitigating factors. This is when Officer Thomas read his prepared statement.

After hearing the charges, case investigation summary, and Officer Thomas's statement, I determined that Officer Thomas did violate West Chester Police Rules and Regulations and Policies and therefore sustained all the charges presented.

Officer Thomas's statement had several areas of concern. Officer Thomas started off with stating he responded for a medical episode. I feel he was down playing that he was sent to a possible overdose. Officer Thomas then stated he did not discover any signs of drug abuse on the subject's person. The 18 year old male was unconscious, labored breathing, blood around his nose, a broken out rear window, a friend on site stating he is known to crush and snort Percocet, a bottle of prescription pills (unknown type) in his pocket, and a separate pill he failed to identify in another bottle. He then stated that he misspoke about seeing powder on the rolled up paper because he was tired. He stated that it was surface dust. I am troubled with this explanation as powder and dust when discussing drugs has two distinctly different meanings. Officer Thomas stated that he properly documented in his narrative that he did not locate any signs of illegal activity.

Officer Thomas has twenty years of police experience. Ten of those years were as a criminal investigator where he routinely was required to document complex cases in his narrative writing. Officer Thomas was also a trained evidence technician where he was responsible to locate, process, and document evidence at crime scenes. For him to state his actions were appropriate is absurd.

The inactions of Officer Thomas are disturbing. Officer Thomas's lackadaisical attitude, failure to take appropriate actions, and failure to document his findings in his report is a complete failure on his part. This subject was hospitalized for a week, four days of which

he was in a coma where physicians thought his organs may shutdown. Officer Thomas stated he takes responsibilities for his stumbles but he has given excuses and has yet to do so. As for Officer Thomas stating he did not receive transitional training when going back to uniform patrol, transitional training is to learn the operations of the computer for taking an infield report, not basic police officer report writing and evidence documentation.

I advised Officer Thomas that I would take a couple weeks to deliberate before rendering a decision on the discipline. I explained I needed the additional time due to the seriousness of the violations and that I was considering up to termination for discipline.

### **Finding**

*Issue #1- Sustained – Violation of Rules & Regulations Section 1.02 / Policy 321*

*Issue #2 – Sustained – Violation of Rules and Regulations Section 1.02 / Policy 600*

*Issue #3 – Sustained – Violation of Rules & Regulations Section 1.02 / Policy 420*

*Issue #4 - Sustained - Violation of Rules and Regulations Section 5.01*

### **Recommendation**

On June 4, 2019 we reconvened at 1400 hours in the Chief's Conference Room. Present in the room was myself, Lisa Brown (Twp. Asst. Administrator), Lt. Haering, Sgt. Tombragel, Officer Thomas, Officer Obermeyer (Union Rep.), and Detective Mize (support for Thomas).


In this case, the victim was hospitalized and unconscious for several days and it was not known if he would live. If he did pass, due to Officer Thomas' lack of proper reporting and evidence collection, we did not have the necessary evidence to proceed with a potential manslaughter case.

We have taken corrective measures and disciplinary action with incidents similar in nature and Officer Thomas has failed to change his careless behavior when investigating these serious crimes. Officer Thomas has brought an unsightly light on the West Chester Police Department and he has failed to operate within our Guiding Principles of Integrity, Commitment, Professionalism, and Courage.

I have reached the decision to terminate Officer Thomas' employment with the West Chester Police Department effective immediately.

**Hearing Officer**

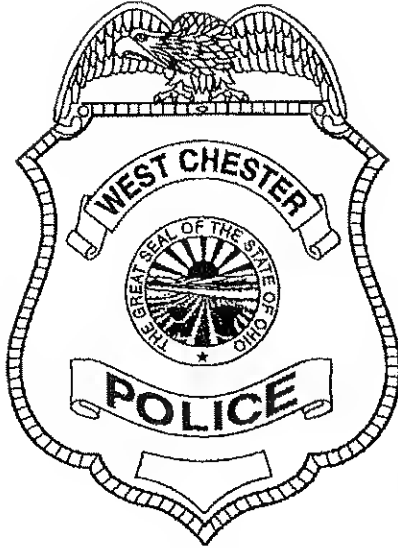
Signature



Date

6/05/19

Distribution  
Chief of Police/Case File



## West Chester Police Department

Colonel Joel M. Herzog  
Chief of Police  
9577 Beckett Road, Suite 500  
West Chester, Ohio 45069  
(513) 759-7250

# Interoffice Memorandum

**To:** Joel M. Herzog, Chief of Police  
**Fr:** Captain Joe Gutman  
**Date:** 5/20/19  
**Re:** Administrative Insight for Internal Investigation 19-04

---

Per policy 1005.11 titled Post-Administrative Procedures, I am including my administrative insight in writing to internal investigation 19-04.

In regard to this internal investigation, this case involves an incomplete investigation and poor evidence handling on the part of PO Thomas. In fact, his report lacks accuracy which is a significant concern. This internal investigation has been requested by the media. It damages the reputation of the West Chester Police Department and hurts our public trust. PO Thomas' conduct as it relates to this investigation is not only a violation of our rules and policy, it violates our vision, mission and guiding principles. It does not represent who we are or the professional agency we strive to be.

On 5/20/19, I reviewed the personnel file of Detective Thomas in order to provide additional administrative insight:

2/4/19, PO Thomas received a "needs improvement" rating for case preparation related to internal 18-05.

8/27/18, an Internal Investigation (18-05) was initiated in reference to the thoroughness and timeliness of an investigation by PO Thomas on a telephone harassment investigation. This was actually a case of stalking and the victim was ultimately murdered. There were sustained charges in this internal investigation resulting in a forty hour suspension. In addition, PO Thomas' handling of the case was reported by the media, damaging the reputation of the West Chester Police Department and hurting our public trust.

---

On 3/23/18, PO Thomas received his 2017 evaluation. He received a "needs improvement" rating in two categories; "decision making" and "investigation and case preparation." These ratings were in connection to the written reprimand issued on 2/28/18.

2/28/18, PO Thomas received a written reprimand for not following up on a lead in a bank robbery case in a timely manner after the internal investigation (18-01) concluded he violated policy. This lead I am referring to identified the suspect in a bank robbery in our jurisdiction as well as a bank robbery that occurred in Trenton. PO Thomas did not immediately follow up on this lead nor did he advise his supervisors of the lead.

6/30/17 review indicated that Detective Thomas was spoken to about managing his victims better. This review is referring to the PSL issued on 4/10/17.

4/10/17 a PSL was issued to Detective Thomas counseling him for not properly preparing a victim for an upcoming court proceeding in a rape case.

1/2/17 evaluation indicated that during 2015, that Detective Thomas needed to improve on case follow-ups in regard to timeliness. He corrected this issue in 2016 per the evaluation. The evaluation also states that Detective Thomas needed to take greater interest and focus on his cases that do not have a financial crime nexus and become more confident in his abilities to conduct such investigations. Evaluation states he has corrected these issues. This was reiterated in the 7/1/16 review.

7/1/16 review indicates that Detective Thomas' rating in case management dropped from "exceeds standards" to "meets standards" based on deficiencies in following up on some cases in a timely manner. The review further states "As this appears to be an ongoing concern, Det. Thomas needs to continue to focus on this concern until it is no longer an issue."

11/2/16, Detective Thomas was counseled regarding the destruction of a complaint that was nollied. Detective Thomas destroyed the complaint after it had gone to Area III Court. This was not in compliance with policy.

1/1/16 evaluation indicates that Detective Thomas was downgraded in case management from "exceeds standards" to "meets standards" based on at least in part to a case review where Detective Thomas, after being given advanced notice of the case review was still unfamiliar with some of his cases, not prepared to discuss them with supervision and also had a case for nearly two months without conducting any follow-up. The evaluation also indicates that Detective Thomas had the same issue in April of 2015.

In addition to what I have already listed, when I personally supervised the Criminal Investigations Section from 2012 through 2015, I noted multiple cases that Detective Thomas had not completed any follow-up on even months after receiving the cases. I addressed this with him verbally and I began to see Detective Thomas correct the issue.

I would be remiss if I didn't mention that PO Thomas also has several positive commendations in his personnel file. He also has several ratings on evaluations that are either "meets standards" or "exceeds standards." However, I feel those commendations

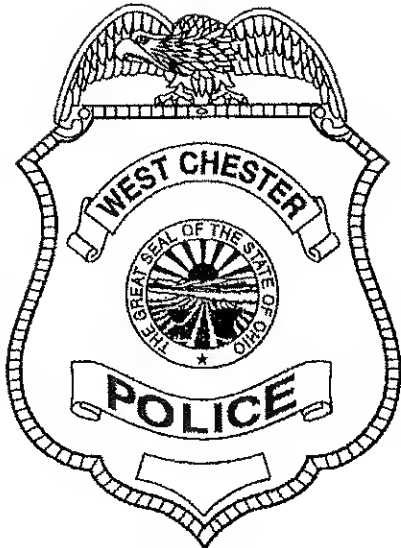
and favorable ratings are being overshadowed by his repetitive history of investigative shortfalls and failures.

Respectfully,

*Captain Joe Gutman* 87

Captain Joe Gutman # 87

Patrol Bureau Commander

**West Chester Police Department**

Colonel Joel M. Herzog  
Chief of Police  
9577 Beckett Road, Suite 500  
West Chester, Ohio 45069  
(513) 759-7250

## Interoffice Memorandum

**To:** Office of the Chief of Police

**Fr:** Lt. Chris Whitton #119

**Date:** May 22, 2019

**Re:** Insight, IIU #19-004

---

Greetings,

This interoffice memorandum serves as my insight for IIU # 19-004. I have worked with Officer Jim Thomas since mid-July of 2018. Officer Thomas received a needs improvement in his 2018 annual evaluation in the area of investigation and case preparation after he received a forty hour suspension involving a matter where he failed to document an investigation properly. Although I did not read the previous internal investigation that warranted his suspension, this internal investigation, IIU # 19-004 is also related to investigation and case preparation.

Officer Thomas spent many years in criminal investigations where his knowledge and experience serves other officers as a resource, especially in the area of financial investigations. Because Officer Thomas brings this experience to the shift, the sustained findings of # 19-004 and the previous internal investigation are concerning.

Recently, Officer Thomas approached the Chief's office stating he felt he needed remedial training since he has not had transitional training from CIS to road patrol. As a result, Sgt. Niehaus spent one twelve hour shift with Officer Thomas. During that shift, Officer Thomas stated he thought he needed additional training. Sgt. Niehaus sent an email to Captain Gutman outlining what Officer Thomas thought he needed training in. Officer Thomas stated he lacked confidence in the area of drug investigations, especially with current trends in drug use and the laws enacted prior to his return to patrol. He also raised the issue that he is not meeting expectations regarding his documentation in supplements of Incident Reports. He feels he is missing something in narrative writing. Sgt. Niehaus stated he thought Officer Thomas had a hard time conveying the issue in report writing.

Officer Thomas said in the future he will get with supervision more often when he is on calls or on a report that he is uncomfortable with to make sure he is meeting expectations.

After Sgt. Niehaus rode with Officer Thomas, Sgt. Niehaus felt Officer Thomas can operate independently without supervision. I concur with Sgt. Niehaus' assessment, and I documented in his 2018 annual evaluation that Officer Thomas voluntarily works one of the busier beats. I do not see any issues with his time management. He seems to manage his beat effectively, he seems to manage his calls efficiently, and he requires little to no supervision. Officer Thomas has been a team player and helps out when needed.

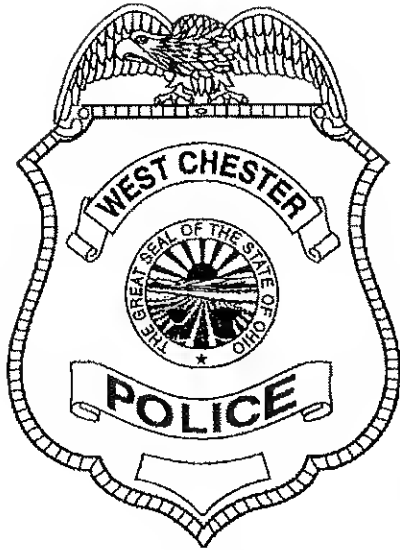
Over the last three months, Officer Thomas has been at the lower end of the shift in his self-initiated activity, however his self-initiated activity has been acceptable and is not of concern at this time. Sgt. Niehaus has not had any issues with his documentation or report writing (except for these internals). Officer Thomas' work ethic has not appeared to be an issue while assigned to road patrol. In light of the recent internal investigations, Officer Thomas has remained professional, maintains a positive attitude, and he has been a pleasure to work with.

Thank you for your time and please let me know if you have any questions.

Respectfully Submitted,

*Lt. Chris Whitton #119*

Lt. Chris Whitton #119



## West Chester Police Department

Colonel Joel M. Herzog  
Chief of Police  
9577 Beckett Road, Suite 500  
West Chester, Ohio 45069  
(513) 759-7250

### Interoffice Memorandum

**To:** Joel M. Herzog, Chief of Police  
**Fr:** Captain Joe Gutman  
**Date:** 5/20/19  
**Re:** Administrative Insight for Internal Investigation 19-04

---

Per policy 1005.11 titled Post-Administrative Procedures, I am including my administrative insight in writing to internal investigation 19-04.

In regard to this internal investigation, this case involves an incomplete investigation and poor evidence handling on the part of PO Thomas. In fact, his report lacks accuracy which is a significant concern. This internal investigation has been requested by the media. It damages the reputation of the West Chester Police Department and hurts our public trust. PO Thomas' conduct as it relates to this investigation is not only a violation of our rules and policy, it violates our vision, mission and guiding principles. It does not represent who we are or the professional agency we strive to be.

On 5/20/19, I reviewed the personnel file of Detective Thomas in order to provide additional administrative insight:

2/4/19, PO Thomas received a "needs improvement" rating for case preparation related to internal 18-05.

8/27/18, an Internal Investigation (18-05) was initiated in reference to the thoroughness and timeliness of an investigation by PO Thomas on a telephone harassment investigation. This was actually a case of stalking and the victim was ultimately murdered. There were sustained charges in this internal investigation resulting in a forty hour suspension. In addition, PO Thomas' handling of the case was reported by the media, damaging the reputation of the West Chester Police Department and hurting our public trust.

---

On 3/23/18, PO Thomas received his 2017 evaluation. He received a "needs improvement" rating in two categories; "decision making" and "investigation and case preparation." These ratings were in connection to the written reprimand issued on 2/28/18.

2/28/18, PO Thomas received a written reprimand for not following up on a lead in a bank robbery case in a timely manner after the internal investigation (18-01) concluded he violated policy. This lead I am referring to identified the suspect in a bank robbery in our jurisdiction as well as a bank robbery that occurred in Trenton. PO Thomas did not immediately follow up on this lead nor did he advise his supervisors of the lead.

6/30/17 review indicated that Detective Thomas was spoken to about managing his victims better. This review is referring to the PSL issued on 4/10/17.

4/10/17 a PSL was issued to Detective Thomas counseling him for not properly preparing a victim for an upcoming court proceeding in a rape case.

1/2/17 evaluation indicated that during 2015, that Detective Thomas needed to improve on case follow-ups in regard to timeliness. He corrected this issue in 2016 per the evaluation. The evaluation also states that Detective Thomas needed to take greater interest and focus on his cases that do not have a financial crime nexus and become more confident in his abilities to conduct such investigations. Evaluation states he has corrected these issues. This was reiterated in the 7/1/16 review.

7/1/16 review indicates that Detective Thomas' rating in case management dropped from "exceeds standards" to "meets standards" based on deficiencies in following up on some cases in a timely manner. The review further states "As this appears to be an ongoing concern, Det. Thomas needs to continue to focus on this concern until it is no longer an issue."

11/2/16, Detective Thomas was counseled regarding the destruction of a complaint that was nollied. Detective Thomas destroyed the complaint after it had gone to Area III Court. This was not in compliance with policy.

1/1/16 evaluation indicates that Detective Thomas was downgraded in case management from "exceeds standards" to "meets standards" based on at least in part to a case review where Detective Thomas, after being given advanced notice of the case review was still unfamiliar with some of his cases, not prepared to discuss them with supervision and also had a case for nearly two months without conducting any follow-up. The evaluation also indicates that Detective Thomas had the same issue in April of 2015.

In addition to what I have already listed, when I personally supervised the Criminal Investigations Section from 2012 through 2015, I noted multiple cases that Detective Thomas had not completed any follow-up on even months after receiving the cases. I addressed this with him verbally and I began to see Detective Thomas correct the issue.

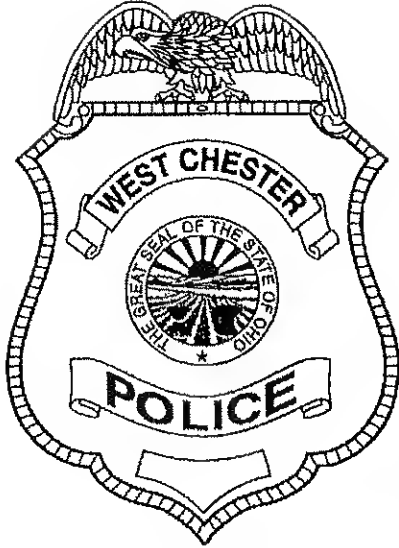
I would be remiss if I didn't mention that PO Thomas also has several positive commendations in his personnel file. He also has several ratings on evaluations that are either "meets standards" or "exceeds standards." However, I feel those commendations

and favorable ratings are being overshadowed by his repetitive history of investigative shortfalls and failures.

Respectfully,

*Captain Joe Gutman* 87

Captain Joe Gutman # 87  
Patrol Bureau Commander

**West Chester Police Department**

Colonel Joel M. Herzog  
Chief of Police  
9577 Beckett Road, Suite 500  
West Chester, Ohio 45069  
(513) 759-7250

## Interoffice Memorandum

**To:** Office of the Chief of Police

**Fr:** Lt. Chris Whitton #119

**Date:** May 22, 2019

**Re:** Insight, IIU #19-004

---

Greetings,

This interoffice memorandum serves as my insight for IIU # 19-004. I have worked with Officer Jim Thomas since mid-July of 2018. Officer Thomas received a needs improvement in his 2018 annual evaluation in the area of investigation and case preparation after he received a forty hour suspension involving a matter where he failed to document an investigation properly. Although I did not read the previous internal investigation that warranted his suspension, this internal investigation, IIU # 19-004 is also related to investigation and case preparation.

Officer Thomas spent many years in criminal investigations where his knowledge and experience serves other officers as a resource, especially in the area of financial investigations. Because Officer Thomas brings this experience to the shift, the sustained findings of # 19-004 and the previous internal investigation are concerning.

Recently, Officer Thomas approached the Chief's office stating he felt he needed remedial training since he has not had transitional training from CIS to road patrol. As a result, Sgt. Niehaus spent one twelve hour shift with Officer Thomas. During that shift, Officer Thomas stated he thought he needed additional training. Sgt. Niehaus sent an email to Captain Gutman outlining what Officer Thomas thought he needed training in. Officer Thomas stated he lacked confidence in the area of drug investigations, especially with current trends in drug use and the laws enacted prior to his return to patrol. He also raised the issue that he is not meeting expectations regarding his documentation in supplements of Incident Reports. He feels he is missing something in narrative writing. Sgt. Niehaus stated he thought Officer Thomas had a hard time conveying the issue in report writing.

Officer Thomas said in the future he will get with supervision more often when he is on calls or on a report that he is uncomfortable with to make sure he is meeting expectations.

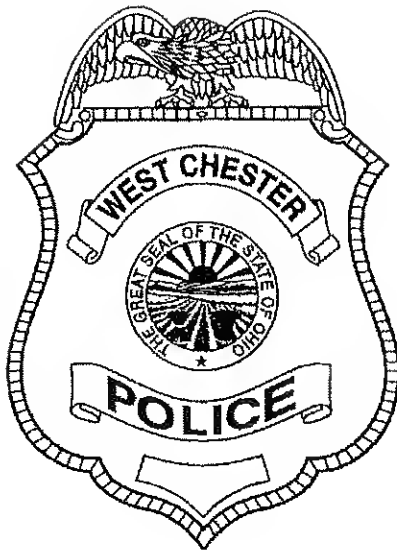
After Sgt. Niehaus rode with Officer Thomas, Sgt. Niehaus felt Officer Thomas can operate independently without supervision. I concur with Sgt. Niehaus' assessment, and I documented in his 2018 annual evaluation that Officer Thomas voluntarily works one of the busier beats. I do not see any issues with his time management. He seems to manage his beat effectively, he seems to manage his calls efficiently, and he requires little to no supervision. Officer Thomas has been a team player and helps out when needed.

Over the last three months, Officer Thomas has been at the lower end of the shift in his self-initiated activity, however his self-initiated activity has been acceptable and is not of concern at this time. Sgt. Niehaus has not had any issues with his documentation or report writing (except for these internals). Officer Thomas' work ethic has not appeared to be an issue while assigned to road patrol. In light of the recent internal investigations, Officer Thomas has remained professional, maintains a positive attitude, and he has been a pleasure to work with.

Thank you for your time and please let me know if you have any questions.

Respectfully Submitted,

*Lt. Chris Whitton #119*  
Lt. Chris Whitton #119



## West Chester Police Department

Colonel Joel M. Herzog  
Chief of Police  
9577 Beckett Road, Suite 500  
West Chester, Ohio 45069  
(513) 759-7250

# Interdepartmental Memorandum

**To:** Colonel Joel Herzog, Chief of Police

**Fr:** P.O. J. Thomas #182

**Date:** May 22, 2019

**Re:** IIU#19-004

---

On March 23, 2019, I responded with the West Chester Fire Department for a report of a subject experiencing a medical episode in a vehicle in the driveway of 5852 Forge Bridge Dr. When I arrived, I located the patient in the front driver's seat. He appeared to be experiencing a medical issue, as he was unresponsive and had labored breathing. I did not discover any signs of drug abuse on his person. I found a prescription pill bottle in his left front jacket pocket that contained a large amount of pills. The pill bottle was prescribed to the patient. I do not recall the exact name of the prescription but did not believe it was Percocet. I placed the bottle back into his jacket for the squad and hospital staff to assess. I made sure the squad was notified of the prescription. I also spoke with a resident at that address who stated he believed the subject "snorted Percocet" in the past. He was also under the belief the subject was in Cincinnati earlier in the evening.

After the patient was removed from the vehicle, Officer Zeller and I searched the vehicle to determine whether this was a medical episode or potentially a criminal issue. I conducted the search under the motor vehicle exception to the search warrant based on the statement of the resident and the unexplained medical episode. I noticed a small, rolled up piece of paper on the floor board of the front passenger area, between the seat and door. While using my flashlight to see, I unrolled the paper. As I unrolled the paper, I observed a minute amount of surface dust enter the light of my flashlight, indicating the paper had likely been there for a period of time. I did not find anything on the paper or within the vehicle indicative of illegal drugs. I felt that there was nothing of evidentiary value to the paper and placed it back into the vehicle. I informed Officer Zeller what I had found and described it to him as powder. I did not realize I even described it audibly

as powder until I watched my body cam video. I misspoke, in part, because I was tired. I was in the twelfth hour of my twelve hour shift. I also found what appeared to be one of the prescription pills discovered earlier located in an over-the-counter bottle in the vehicle console. I felt since the prescription bottle was in his name this was nothing unusual to find, since it is not illegal to place prescribed pills in a different container.

Officer Zeller and I concluded that there was nothing of evidentiary value in the vehicle and nothing would be collected. I verbalized to Officer Zeller my hunch the subject may have used the piece of paper at some point to snort prescribed pills, but I felt I did not have enough information to believe a crime was committed.

I returned to my vehicle and generated a report. My initial thought was to title the report "aided case," as I was not sure whether this was a medical episode or potential drug abuse. I ended up titling the report as "drug possession," because I could not think of an explanation as to why this patient was in the condition he was found. I properly documented in my narrative that we did not locate any signs of illegal drug activity. There are numerous times where officers conduct a search, locate something unusual, but after making a determination that the item has no evidentiary value and will not be collected, it is not documented as being present and just not collected.

It was a mistake on my part for forgetting to tag my video. I realize this is required by policy; however, it should be noted that an email was recently sent out departmentally indicating over 70 videos were not tagged. I feel I should be given the same chance those other officers received.

I conducted this investigation based on good faith, officer discretion and due diligence. I did not feel the need to collect the prescribed medication in his pocket as there were no signs of those pills being used illegally. I had no probable cause to believe those pills were anything else other than what was prescribed to him. I did not feel the need to collect the piece of paper, because I did not believe it was evidence of criminal conduct. There were no signs that he had snorted or used any type of drugs while in his vehicle. To this day, I am unsure what exactly transpired. I was not attempting to hide, cover up, omit or provide false or misleading information. That is not who I am. I knew the entire investigation was on body cam and made a determination on how to handle the call based on my observations.

I am in my twentieth year of law enforcement and have never been accused of dishonesty or being misleading. I am a hardworking, trustworthy and an honest police officer and refuse to be labeled as anything contrary. I made a decision based on the totality of the circumstances and my training and experience. I feel that my actions were appropriate.

#### Mitigation:

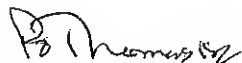
I have been a police officer for over twenty-years. I have gone above and beyond the call of duty. As a senior officer, I try my best to serve as a role model for the newer officers on my shift. I currently serve on the honor guard as a way to show my dedication and faith to law enforcement. I exemplified community-oriented policing while serving on the mounted patrol unit. I was also selected for the position of criminal investigations detective and served in that capacity for over ten years. After the ten plus years of CIS, I decided it was time for me to transition back to the uniform road patrol. I have been on road patrol for just over a year now and to say it has been a difficult year is an

understatement. I have been in law enforcement for over twenty years and I have never had any difficulties until this last year and a half. I have over thirty-five written commendations in my personnel file. Most of those commendations were received within the last ten years. Many of the commendations were from victims, citizens and business owners, applauding me for a job well done. Several of these also came from supervisors who commended my ability to handle stressful and complex situations including; dealing with a psychiatric patient at a mental facility where not even the staff could control him; a suicidal subject contemplating jumping off a bridge onto the highway; and helping other officers with their investigations. I have also received several commendations from prosecutors of the Butler County Prosecutor's Office and other law enforcement agencies contacting supervisors to commend me on my work. While I have met, and often exceeded, the expectations of victims, citizens, business owners, prosecutors and other law enforcement, I feel I am struggling to meet your expectations. I feel a lot has changed in road patrol during the ten years I was in CIS, such as: the report writing system (IFR), implementation of new policies and procedures (Lexipol), changes in administration, OVI procedures, auto accidents, and drug trends just to name a few. When I returned to the road patrol, I received no transitional training. Though I was originally scheduled for transitional training, Captain Gutman requested I return without training due to manpower shortages. This is why I met with you on April 29, 2019, requesting transitional training for road patrol. After spending ten years in CIS primarily investigating financial crimes, receiving no transitional training has, in part, rendered me unable to meet your expectations. I feel that with some training as requested I can meet, and ultimately exceed, your expectations.

I know I am a good police officer. I have a long history of performing my duties well, a good work ethic and being a very dependable employee. I realized just over a year ago that I needed to make a change from CIS and wanted to return to the road patrol. I did not realize it would be such a challenge for me to re-acclimate. I've had a couple bumps in the road; however, I will not be deterred and let them define my career. I truly enjoy working road patrol and take pride in being a senior officer. I'm able to use my twenty years of experience to serve as a mentor for newer officers.

It has been very difficult over the past several months to come to work with so much hanging over my head. I come in every day, put on the uniform and badge, and hold my head high. I respond to calls, initiate traffic stops, OVI arrests, patrol my neighborhoods and businesses, and assist my fellow officers. I do this all while being scrutinized by the media and constantly thinking about the outcome of this investigation.

Just like anyone else, I'm not infallible. I take responsibility for my stumbles and use them as learning lessons. It is my ultimate goal to take advantage of the future training opportunities being offered and exceed your expectations. I am asking you to take into consideration all of these factors.



P.O. J. Thomas #182